

Peter De La Mora

March 11, 2021

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

COLE & ASHCROFT, LP DBA)	
SHUTTERS PLUS,)	
)	
Plaintiff,)	
)	
VS.)	CIVIL ACTION NO.
)	4:20-cv-03507
STATE AUTOMOBILE MUTUAL)	
INSURANCE COMPANY,)	
)	
Defendant.)	

REMOTE ORAL DEPOSITION OF

PETER DE LA MORA

MARCH 11, 2021

REMOTE ORAL DEPOSITION OF PETER DE LA MORA,
produced as a witness at the instance of the DEFENDANT,
and duly sworn, was taken in the above-styled and
-numbered cause on March 11, 2021, from 11:04 a.m. to
12:13 p.m., via Zoom, before Mercedes Arellano, CSR in
and for the State of Texas, reported by machine
shorthand, in Dallas County, Texas, pursuant to the
Federal Rules of Civil Procedure and the current
emergency order regarding the COVID-19 State of
Disaster.

**DEFENDANT'S
EXHIBIT A**

R E M O T E A P P E A R A N C E S

FOR THE PLAINTIFF:

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FOR THE DEFENDANT:

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ALSO PRESENT:

Mr. Robert Mendoza, Kim Tindall & Associates' Zoom Host

REPORTER'S NOTE

Uh-huh = Yes - Affirmative response

Huh-uh = No - Negative response

Quotation marks are used for clarity and do not
necessarily indicate a direct quote.

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1 P R O C E E D I N G S

2 (All parties present have hereby waived the
3 necessity of the reading of the statements by the
4 stenographer according to Rule 30(b)(5).)

5 THE STENOGRAPHER: We are now on the record
6 for the Zoom deposition of Peter De La Mora. The date
7 is March 11th, 2021. The time is 11:04 a.m.

8 Will everyone please state their name,
9 their location, and if counsel will please state who
10 they represent.

11 MR. KEMP: Patrick --

12 MR. FADNER: Good morning -- oh. Go ahead,
13 Patrick.

14 MR. KEMP: Patrick Kemp. I represent State
15 Automobile Mutual Insurance Company, appearing from
16 Austin, Texas.

17 MR. FADNER: And good morning. Derek
18 Fadner, and I represent Cole & Ashcroft, the plaintiffs
19 in this case. And I'm appearing from Houston, Texas.

20 THE WITNESS: I am Peter De La Mora. I'm
21 the expert witness.

22 THE STENOGRAPHER: And where are you
23 located, Mr. De La Mora?

24 THE WITNESS: I'm located in Houston, in my
25 office in Houston, Texas.

1 A. That's correct.

2 Q. So you -- you've got a number of references to
3 crimps from foot traffic, some dents from hail; you've
4 got sealant in various areas; you've got blown-off seam
5 gaskets, wind displaced closure strips, screws covered
6 with sealant, screws that have been -- I guess are
7 missing at -- at various places. Right?

8 All of those things -- you put all of
9 those things into account, correct, and -- and concluded
10 it was wind from Hurricane Harvey, right?

11 A. That's correct. It's very consistent with
12 that.

13 Q. Now, let's talk about the -- the crimps.
14 You're not saying that crimps from foot traffic were
15 wind from Hurricane Harvey, are you?

16 A. Of course not. I'm not saying that you have to
17 do anything about those crimps either.

18 Q. Okay. Nothing really needs to be done about
19 crimps?

20 A. No. That happens once in a while when -- when
21 people don't think that they have to step on the high
22 points of the roof, rather than on the flat section of
23 it.

24 Q. I understand. I think I understand what you're
25 saying. You're saying those crimps are caused when

1 someone steps on the lower flat portion that's not
2 supported as well, correct?

3 A. No. When they step on the -- on the -- on
4 the lifted -- the top sections, they -- the...

5 Q. The seams?

6 A. The seams.

7 Q. Oh, so people walk on the seams?

8 A. Yeah. They should walk on the flat section.
9 When you walk on metal roofs, you walk on the flat
10 section. Because if you step on the seams, that's what
11 you do, you crimp them.

12 Q. Okay. But those don't -- those crimps are --
13 are just cosmetic. They don't need repairs, right?

14 A. That's correct.

15 Q. Okay. And you -- you noted some -- some hail
16 dents, too. You feel the same about hail dents?

17 A. Some of the hail dents are just cosmetic. Some
18 of them when the -- if they -- if they hit the seams,
19 then they can cause damage. But normally, on the -- on
20 the flat sections, they're -- they're okay.

21 Q. "They're okay," meaning they're just cosmetic?

22 A. Meaning that they're just a -- a little dimple
23 on the thing.

24 Q. I'm sorry. I didn't hear the last part. It
25 may be --

1 A. Maybe a little dimple on the metal. It's
2 not -- you know, just a small -- small dents like those
3 are not going to affect the -- the function of the roof
4 unless they hit the seams.

5 Q. Did you find any that hit the seams that caused
6 functional damage?

7 A. You know, there's always some that hit the
8 seams. I mean, hail doesn't have a name. It just comes
9 down.

10 Photograph 22 shows it -- they hit on a
11 seam. But...

12 Q. The -- the photo that I have of yours that's
13 marked Photo 22 says, "Office roof sealing applied to
14 roof bent jack."

15 A. That's correct. Or around the bent jack,
16 actually.

17 Q. You're saying Photograph 22 shows they had a
18 dent from hail?

19 A. No. That was probably wind damage.

20 Q. Okay. So Photo 22 is wind damage, right?

21 A. Correct.

22 Q. Okay. So that Photo 22 shows a bunch of
23 sealant around the roof penetration then, right?

24 A. Yes, correct.

25 Q. And so are you saying the sealant itself

1 establishes that there was wind damage?

2 A. No. The sealant establishes that there was
3 some damage at the place where the pipe goes through.
4 And the pipe, the -- probably broke the jack, the rubber
5 jack.

6 Q. And your opinion is based on looking at this
7 photograph -- based on looking at this photograph and
8 seeing the sealant?

9 A. Pardon?

10 Q. I -- I'm trying to understand what's the basis
11 of your opinion. You stated that Photograph 22 states,
12 "Office roof sealing -- sealant applied to roof bent
13 jack."

14 A. Right.

15 Q. You just told me that that is wind damage,
16 right?

17 A. Most likely, yes.

18 Q. Okay. And the basis of that opinion is what?

19 A. The basis of that opinion is that we had a
20 hurricane, and there was pretty much a lot of wind in
21 that area. And the wind affected the roof, and the wind
22 on a roof like this makes it vibrate up and down. And
23 that broke the seal of the -- around the pipe. And they
24 went back and replaced it or damaged the -- the roof
25 jack, the membrane of the -- that fits, makes the

1 from 2019?

2 A. Correct.

3 Q. And those hail dents, though, it's still your
4 opinion that there was wind damage during Hurricane
5 Harvey that -- that requires the -- necessitates removal
6 and replacement of the roof, right?

7 A. That's correct.

8 Q. All right, sir. I'm going to share my screen
9 with you here. I'm showing you what has been marked as
10 Exhibit 18. Do you recognize that as your report from
11 November 8, 2019?

12 A. Yes.

13 Q. And that's addressed to Derek Fadner and
14 McClenny Moseley & Associates?

15 A. Correct.

16 Q. And that's your -- your stamp on it, if you
17 will, correct?

18 A. That's right.

19 Q. Does the stamp and your signature signify
20 something?

21 A. Signify that I am registered as a professional
22 engineer with the State of Texas -- or licensed.

23 Q. All right, sir. You've discussed -- I want
24 to -- I want to go to your opinions and then make sure I
25 understand.

1 Here beginning at Page 12, you begin
2 with, "In our opinion, wind during Hurricane Harvey had
3 sufficient force to cause the observed damage at the
4 Cole & Ashcroft, LP, building. As a result of wind
5 damage during Hurricane Harvey, the metal roofs of the
6 office and warehouse and gutters of the
7 Cole & Ashford" -- I think that's a mistake -- "LP
8 building require removal and replacement."

9 Did I read that correct?

10 A. That's correct.

11 Q. Then you state, "In the interior of the
12 building, there is water damage from roof leaks as
13 follows."

14 A. Right.

15 Q. And then you go on to identify areas where
16 there's water damage ceiling tiles, water damage wood
17 floors, and other -- in -- in several rooms throughout
18 the building, including lobby, cubicle room reception,
19 Office 4, Office 5, conference room, Office 7, kitchen,
20 studio, Conference Room 2, Office 3, and the warehouse.

21 Right?

22 A. That's correct.

23 Q. Then you say, "The interior water damage
24 requires restoration," right?

25 A. Right.

1 Q. What I didn't see in there was any opinion
2 about what caused the water damage, other than you
3 stated it's from roof leaks, right?

4 A. Right.

5 Q. Now, do you have an opinion as to when the
6 water damage occurred?

7 A. Yeah. It occurred during the hurricane.

8 Q. During Hurricane Harvey?

9 A. Right.

10 Q. Okay. And what's the basis of that opinion?

11 A. The basis of that opinion is that Hurricane
12 Harvey created openings in the roof that allowed water
13 to go in.

14 Q. Okay. Attached to your report, the pictures
15 taken by Cole & Ashcroft's public adjustor, do you
16 recall that?

17 A. Yes.

18 Q. For what purpose did you attach his pictures?

19 A. Well, I had them, I looked at them, I attached
20 them. They show damage to the building. He was there a
21 lot earlier than we were, so we -- he had a much better
22 view of the damage on the interior than we did.

23 Q. Mr. Demeritt, whose photos these are, made
24 chalk note on the roof, and here's -- here's one, his
25 Photo 16.

1 So I'm looking at Exhibit C to your report,
2 correct?

3 A. Correct.

4 Q. And then he notes, do you see it in yellow,
5 "temp repair"? He puts an arrow.

6 A. I'm sorry. Which picture are you looking at?

7 Oh, yes. I see it.

8 Q. Do you agree that that is a -- not a -- a
9 repair that would be a -- considered a -- a permanent
10 repair?

11 A. No, but it's on the tape in there. It was a
12 little bit of pookie. That's not a temporary repair.

13 Q. Could you state that again, a little -- a
14 little bit of "pookie"?

15 A. Pookie, the -- the tar.

16 Q. What's it called?

17 A. I call it pookie.

18 Q. How do you spell that?

19 A. That's me. That's -- that's not a technical
20 term.

21 Q. Okay. How do you spell it for the court
22 reporter?

23 A. P-U-K-Y [sic], I guess.

24 Q. Okay. So Photo 16 does, in your opinion,
25 depict a temporary repair to the roof, right?

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INSURANCE COMPANY,)
Defendant.)

REPORTER'S CERTIFICATION
REMOTE DEPOSITION OF PETER DE LA MORA
MARCH 11, 2021

I, Mercedes Arellano, Certified Shorthand Reporter
in and for the State of Texas, hereby certify to the
following:

That the witness, PETER DE LA MORA, was duly sworn
by the officer and that the transcript of the oral
deposition is a true record of the testimony given by
the witness;

That examination and signature of the witness to
the deposition transcript was waived by the witness and
agreement of the parties at the time of the deposition;

That the original deposition was delivered to
MR. PATRICK M. KEMP;

That the amount of time used by each party at the

1 deposition is as follows:

2 Mr. Derek L. Fadner - 00 HOURS:00 MINUTE(S)

3 Mr. Patrick M. Kemp - 01 HOURS:09 MINUTE(S)

4 That \$_____ is the deposition officer's
5 charges to the Party for preparing the original
6 deposition transcript and any copies of exhibits;

7 That pursuant to information given to the
8 deposition officer at the time said testimony was taken,
9 the following includes all parties of record:

10 Mr. Derek L. Fadner, Attorney for Plaintiff

11 Mr. Patrick M. Kemp, Attorney for Defendant

12 That a copy of this certificate was served on all
13 parties shown herein on _____ and filed
14 with the Clerk pursuant to Rule 203.3.

15 I further certify that I am neither counsel for,
16 related to, nor employed by any of the parties or
17 attorneys in the action in which this proceeding was
18 taken, and further that I am not financially or
19 otherwise interested in the outcome of the action.

20 Certified to by me this ____ day of March, 2021.

21

22 Mercedes Arellano, Texas CSR 8395
23 Expiration Date: January 31, 2022
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25 Firm Registration No. 631
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